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SERVICE DATE - JANUARY 9, 2004

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 405X)

**Burlington Northern and Santa Fe Railway Company – Abandonment and Discontinuance
of Service Exemption – in Jefferson, Gage, and Pawnee Counties, NE**

BACKGROUND

In this proceeding, Burlington Northern and Santa Fe Railway Company (BNSF) has filed a petition for exemption under 49 CFR 1152 seeking exemption from the requirements of 49 U.S.C. 10903 for BNSF to abandon and discontinue service on 59.23 miles of rail line extending from Milepost 57.80, near Pawnee, to Milepost 117.03, near Endicott, traversing the Nebraska counties of Jefferson, Gage, and Pawnee. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances, and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to BNSF, the right-of-way was acquired between 1880 and 1889, by the Republican Valley Railroad, a predecessor to BNSF. The line travels through a predominantly rural area, and it is unlikely that the proposed project would be inconsistent with existing land use plans. The right-of-way is generally 100 feet wide, and there are 82 public crossings and 46 private crossings along the line. The right-of-way may be suitable for alternative public use.

There are 33 bridges on the line that are 50 years old or older. These bridges were constructed between 1899 and 1944 and range from 43 feet to 669 feet in length.

Due to heavy rains and flooding in June 2003, which caused damage and washouts, the line east of Endicott was embargoed. There were 5 shippers using the line prior to the embargo: Southeast Nebraska Cooperative (SE Nebraska Coop), Wymore Fertilizer Co. (Wymore Fertilizer), Farmers Cooperative (Farmers Coop), Firth Cooperative (Firth Coop), and Endicott Clay Products Co. (Endicott Clay). Endicott Clay is the only shipper currently receiving rail service. In order to serve Endicott Clay, BNSF was temporarily detouring trains over the Union Pacific Railroad (UP) line between Hastings and Endicott. As of November 3, 2003, BNSF and UP entered into an arrangement, under which UP hauls Endicott Clay's traffic between Endicott and Kansas City as BNSF's agent. Following the abandonment, BNSF states that it will convey approximately 2.12 miles to Endicott Clay as industrial track. This will allow Endicott Clay to connect with UP's main line for continued rail service. According to BNSF, the other four

shippers have switched to motor carrier service and will continue to use alternative transportation. BNSF indicates that all active shippers support the proposed abandonment and discontinuance.

In 2001, BNSF moved 491 carloads on the line for its customers. SE Nebraska Coop received 2 carloads of fertilizer; Wymore Fertilizer received 1 carload of fertilizer; Farmers Coop shipped 181 carloads of grain and received 2 carloads of fertilizer; Firth Coop received 2 carloads of fertilizer; and Endicott Clay shipped 293 carloads of bricks and received 10 carloads of lignin liquor. In 2002, rail traffic declined to a total of 419 carloads. SE Nebraska Coop received 3 carloads of fertilizer; Wymore Fertilizer received 9 carload of fertilizer; Farmers Coop shipped 109 carloads of grain; Firth Coop received no shipments; and Endicott Clay shipped 292 carloads of bricks and received 6 carloads of lignin liquor. The rail traffic data for 2003 are incomplete because of the BNSF-imposed embargo. However, BNSF states that in the first nine months of 2003, SE Nebraska Coop received 2 carloads of fertilizer, and Endicott Clay shipped 227 carloads of bricks and received 9 carloads of lignin liquor.

Due to the damage caused by the flooding in June 2003, repairs would be required to restore the line to Federal Railroad Administration (FRA) Class I standards. BNSF estimates that the rehabilitation would cost at least \$135,000. BNSF further states that rail traffic and revenues have declined significantly, and the revenues generated by the line do not cover the cost of maintenance and rehabilitation.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicants served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The National Geodetic Survey has advised us that two geodetic station markers have been identified that may be affected by the proposed abandonment.

The U.S. Army Corps of Engineers, Omaha District, concluded that the proposed abandonment, as outlined by BNSF, would not involve the discharge of fill material in waters of the United States. Therefore, a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required.

BNSF has stated that there would be no grading of the right-of-way, if authority to abandon and discontinue the line is granted. Accordingly, the U.S. Department of Environmental Quality, Wastewater Section, states that a National Pollution Discharge Elimination System permit under Section 402 of the Clean Water Act (33 U.S.C. 1342) would not be required.

The US. Department of Agriculture, Natural Resources Conservation Service (NRCS), State Conservationist, states that the proposed project will have no effect on prime farmlands, wetlands, or agricultural lands. The NRCS, Fairbury Field Office, also indicated that the proposed abandonment will have no effect on prime agricultural land. The NRCS, Pawnee City Field Office, states that there will be no adverse effect to prime agricultural farmland in Pawnee, as long as the roadbed remains intact. BNSF has stated that the proposed abandonment may require the removal of the track materials, such as the rails and ties, but the road bed will remain intact. Therefore, adverse effects to prime farmland would not be expected.

Jefferson County submitted comments stating that the proposed abandonment is consistent with local land use plans. The project will not affect any 100-year floodplains in Jefferson County, provided the road bed remains intact. Because BNSF has stated that the road bed will remain intact, adverse effects the 100-year floodplains would not be expected.

The U.S. Bureau of Land Management, Newcastle Field Office (BLM), has stated that the proposed abandonment will not affect any public lands administered by the BLM.

In its review of the proposed project, the U.S. Fish and Wildlife Service (USFWS), Nebraska Field Office, submitted comments stating that it has no objection to the project, as proposed. The USFWS states that the project does not appear to impact federal fish and wildlife management facilities. The USFWS also states that no federally listed or proposed threatened or endangered species are expected to occur within the project area. Therefore, adverse impacts to these resources would not be expected.

The Nebraska Game and Parks Commission (NGPC) has expressed concerns about the Rock Glen Wildlife Management Area, Rock Creek Station Historical Park, and Rock Creek State Recreation area, which are located near Endicott. NGPC states that the Rock Glen/Rock Creek Station complex has 19th Century historical features and biological attributes that are adjacent to the proposed abandonment. Accordingly, SEA recommends a consultation condition requiring that BNSF contact the NGPC prior to commencement of any salvage activities.

According to BNSF, diesel fuel contamination from locomotive fueling is likely to have occurred in Wymore, which was formerly a division point with a roadhouse. There have been no environmental assessments at this location. The Nebraska Department of Environmental Quality (NDEQ), Waste Management Section, advised SEA that any required action or clean up measures would be dependent upon: (1) when the contamination occurred and (2) whether the contamination resulted from a spill or underground storage leak. Accordingly, SEA recommends a consultation condition requiring that BNSF contact the NDEQ (Kevin Stoner at (402) 471-4210), prior to commencement of any salvage activities.

Traffic

BNSF states in its application that a total of 419 carloads were moved on the line during the base year (calendar year 2002).¹ Using a rail-to-truck conversion factor of 4 trucks per railcar,² SEA calculates that on a per day basis, if all the rail traffic is diverted to truck traffic, the abandonment would generate an estimated 1,676 new trucks per year (3,352 truck trips assuming an empty backhaul). This equates to approximately 14 trucks per day being added to area roads during a 240 workday year.³ This increase will not exceed the Board's thresholds of an increase of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment [49 C.F.R. 1105.7(e)].

HISTORIC REVIEW

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. BNSF served the report on the Nebraska State Historic Preservation Office (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected by the proposed abandonment and discontinuance of service. We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d)(1) and 36 CFR 800.8, we have determined that the proposed abandonment and discontinuance of service will not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of CSX's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

CONDITIONS

We recommend that the following three conditions be placed on any decision granting abandonment authority:

¹ Because a portion of the line has been out of service since June 2003, SEA is using 2002 as the base year.

² The conversion factor is an estimate used to calculate the rail to truck conversion of varied commodities.

³ 240 workdays result when weekends and holidays are subtracted from a 365 day year.

1. The National Geodetic Survey (NGS) has identified two geodetic station markers that may be affected by the proposed abandonment. Therefore, BNSF shall notify NGS at least 90 days prior to any salvage activities, in order to plan for their relocation.
2. The Nebraska Game and Parks Commission (NGPC) has expressed concerns about the Rock Glen Wildlife Management Area, Rock Creek Station Historical Park, and Rock Creek State Recreation area, which are located near Endicott. NGPC also states that the Rock Glen/Rock Creek Station complex has 19th Century historical features and biological attributes that are adjacent to the proposed abandonment. Accordingly, SEA recommends a consultation condition requiring that BNSF contact the NGPC prior to commencement of any salvage activities.
3. Diesel fuel contamination from locomotive fueling is likely to have occurred in Wymore, Nebraska. Accordingly, BNSF shall consult with the Nebraska Department of Environmental Quality, Waste Management Section, (Kevin Stoner, 402-471-4210), prior to undertaking any salvage activities to determine what appropriate clean up measures may be required.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice (68 FR 67508).

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean, who prepared this environmental assessment. **Please refer to Docket No. AB-6 (Sub No. 405X) in all correspondence addressed to the Board.** If you have any questions regarding this environmental assessment, you should contact Christa Dean, the environmental contact for this case by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

Date made available to the public: January 9, 2004.

Comment due date: Monday, February 9, 2004.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachments

